

NEWINGTON TOWN PLAN AND ZONING COMMISSION

April 13, 2011

Regular Meeting

Chairman David Pruett called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m. in the Town Council Chambers at the Newington Town Hall, 131 Cedar Street, Newington, Connecticut.

I. ROLL CALL

Commissioners Present

Commissioner Anest
Commissioner Camerota
Commissioner Casasanta
Commissioner Hall
Commissioner Pane
Chairman Pruett
Commissioner Aieta
Commissioner Lenares
Commissioner Turco

Commissioners Absent

Commissioner Schatz

Staff Present

Ed Meehan, Town Planner

Commissioner Lenares was seated for Commissioner Schatz.

II. PUBLIC HEARINGS

None

III. PUBLIC PARTICIPATION (relative to items not listed on the Agenda – each speaker limited to two minutes)

None

IV. MINUTES

March 23, 2011 – Regular Meeting

Commissioner Casasanta moved to accept the minutes of the March 23, 2011 Regular Meeting. The motion was seconded by Commissioner Anest. The vote was in favor of the motion, with six voting YES and one abstention (Camerota).

V. COMMUNICATIONS AND REPORTS

- A. 8-24 Referral – Easement to State of Connecticut for slope and drainage at 690 Cedar Street, National Welding.

Ed Meehan: The first item is an 8-24 Referral from the Town Council to the TPZ. Under the statutes 8-24 before the Town Council can act on an easement granted, sale of land needs to come before your board. There is a staff report on the table regarding this matter. It's for drainage and slope easements requested at 690 Cedar Street, the former National Welding site. The Department of Transportation is requesting these easements so that they can move forward with the adjacent busway station which is to the north of National Welding on about a three and a half acre piece, and for sloping along the proposed travel way which accommodates the busway. The drainage easements in this area would also benefit the Town for any reuse of the National Welding site because we would have drainage rights into those easement areas, and would be useful for the drainage off the proposed road which is supposed to extend from National Welding westward to Fenn Road and serve both the town property, the private development to the west as well as the future busway station. So there are some benefits in this to the town, as agreed to by the Town Council. The payment fee is very small, it's only \$5200.00, this is a very small area. I have a larger map on the stage behind the Commission members if you would like to take a moment to look at that. It's pretty straight forward.

Chairman Pruet: Any questions for Ed on this referral? Anybody want to take a moment to look at the map?

- B. 8-24 Referral - Easement to CL&P for electrical service Mill Street Extension, New Samaritan Elderly Housing Project.

Chairman Pruet: Item B Ed, that's off the table?

Ed Meehan: Yes, the Council did not refer this to you last night, it will probably come to you after the next Council meeting.

Chairman Pruet: Okay, thank you.

VI. NEW BUSINESS

- A. **PETITION 08-11 – 3260 Berlin Turnpike, Plaza Azteca Restaurant applicant, 170 Slater Street Manchester, CT 06042 contact Linda Montoyo request for outside seasonal patio dining, PD Zone District.**

Chairman Pruet: Is the petitioner here? Sir, would you come forward to the podium and state your name and address for the record, please?

Hector Reyos, 170 Slater Street, Manchester: I am here tonight to be approved to do a patio at 3260 Berlin Turnpike. It's just going to be a seasonal patio, open, stamped concrete, wall about three feet, ten or twelve tables. We have already checked and it is away from the property line and I'm hoping to get this in. I think it's going to be a great dining experience.

Chairman Pruet: Okay, thank you. Ed, Town Planner comments?

Ed Meehan: Yes, thank you. Commission members have a reduced version of the proposed patio layout. It's a twenty foot depth from the front of the restaurant, by sixty feet long. There

is a projection of the roof now, on this building, goes out about eight to ten feet from the overhang of the building, and this patio would go over the front yard setback line but under the zoning definitions because it's not constituted as a structure, it doesn't have walls and roof coverage, it's not regulated by the setback lines. We have other examples of patios for outside dining that I can give you, if you wish. It would be accessible from the front of the restaurant, I believe the plans, even on the smaller scale, you can see the double, like a picture window there, it would open up for a double egress door out to the patio. As the applicant said, it would be seasonal. It has to be enclosed because they do want to serve liquor out there so State Liquor laws require that it be enclosed. This is typical of what we see for outside dining. The applicant did mention to me, if the Commission would be willing to grant them approval, or willing to act on it tonight, they would be very happy with that because they want to move forward so they can be open by Cinco de Mayo.

Chairman Pruet: Okay sir, if you would take a seat, we are going to open it up for Commissioner comments?

Commissioner Hall: Just a question. I'm assuming that this is the HOPS, also known as Carsons building?

Chairman Pruet: Yes.

Commissioner Hall: Okay, and this would be on the Berlin Turnpike side with that little wall. It looks like a nice little fence, and would probably have concrete or brick half wall?

Ed Meehan: Right, and there is decorative metal fencing on the top.

Commissioner Hall: Right. Thank you.

Chairman Pruet: Additional Commissioner comments?

Commissioner Pane: A couple of questions for Ed. Ed, have you, this is adding 52 seating, have you analyzed the parking count to see if that added 52 seating is any problem, number one, number two, I don't see any landscaping, plantings around this at all, and number three, there is a ramp on one end, I was wondering what that goes to, or is it just an emergency exit? Thank you.

Ed Meehan: As far as parking, this section of Lowe's plaza has quite a bit of parking. It goes all the way back to the back of where Lowe's has it's seasonal garden area. They share parking with IHOP and Lowe's, so there should be more than enough parking for this particular use. The seating, that goes with the parking. The seating is not fixed, that layout would have to be approved by the Fire Marshal for egress. Some of those tables actually may not be permitted after the Fire Marshal looks at this. There has to be travel way access out of the restaurant, this, now will be a double door, will be a means of egress out of the restaurant. The ramp you asked about is an emergency exit. It leads to crushed stone that goes around the building. The other way out of this patio, I'm not sure how the applicant plans to use it would be toward the front door, which is a brick path way.

Commissioner Pane: I didn't see any landscaping.

Ed Meehan: Oh, the landscaping. There is no (inaudible) proposed. There is a cluster of three trees just off the corner, the southwest corner of the building now, fairly mature. They go back to when HOPS was first built there. So there is some shade and trees just at the edge of the patio.

Commissioner Pane: Thank you very much.

Chairman Pruet: Additional comments?

Commissioner Anest: Just a question. I notice that Lowe's has a bunch of seasonal pallets in the parking spaces. Is that going to interfere with the parking for this? On the side of the building.

Ed Meehan: Where the lay down area of the concrete is?

Commissioner Anest: Beyond the fence, the seasonal, all pallets of top soil....

Ed Meehan: That is pretty typical of what we see down there. I don't think they are in parking spaces, they may be in that concrete area.

Commissioner Anest: No, they are in parking spaces.

Ed Meehan: They are in parking spaces, we'll have to take a look at that.

Chairman Pruet: Any other comments from the Commissioners? Okay, what is the pleasure of the Commission?

Commissioner Anest: Mr. Chairman, I'd like to close this petition, and move it to Old Business this evening. I think we should be pro-business and let him get started on this and open up for Cinco de Mayo.

Chairman Pruet: Okay, is that the consensus? Sir, we are going to vote on this tonight, so stay put.

VII. OLD BUSINESS

A. PETITION 07-11 – 3311 Berlin Turnpike, Acorn-Thompson, Bulley Company II, LLC owner Lorence Signworks 55 Willow Brook Berlin, CT 06037 applicant, request for Special Exception, Section 6.2.4 for pylon sign, PD Zone District. Public hearing closed March 23, 2011. Sixty-five day decision period ends May 27, 2011.

Commissioner Camerota moved that PETITION 07-11 – 3311 Berlin Turnpike, Acorn-Thompson, Bulley Company II, LLC owner Lorence Signworks 55 Willow Brook Berlin, CT 06037 applicant, request for Special Exception, Section 6.2.4 for pylon sign, PD Zone District, be approved based on the design plan for a 17' 11" high sign, with a display area of 29.04 square feet per side as submitted to the Commission at public hearing held, March 23, 2011.

The Commission finds that the proposed new pylon will replace an existing non-conforming pylon sign.

Prior to the erection of the sign, the applicant shall secure zoning and building permits.

The motion was seconded by Commissioner Casasanta. The vote was unanimously in favor of the motion, with seven voting YES.

B. Discussion of Possible Draft Zone Amendments Newington Town Plan and Zoning Commission, continued from March 23, 2011.

1. Section 9 Definitions: Sign, Mechanical and Digital

2. Section 6.2.1 (E) Time and Temperature/Fuel Product Digital Signage

Chairman Pruet: We've had previous discussions on our zone amendments continued from our last meeting. Ed, we had some revisions on that, if you could pass them out, and discuss them with us.

Ed Meehan: At the last meeting the Commission discussed this, and the changes that I noted. We changed the word gasoline to fuel to cover bio-fuels and diesel fuels, as well as gasoline. You will see that in here, and then the Commission wanted to restrict this to the zones where you would more typically find gas stations and that would be the Planned Development Zone and the Berlin Turnpike Business Zone. So what I wrote is where you don't want them. You don't want these price signs, digital price signs in the Business Town Center or in the Business District, in other words the neighborhood business zones. I think those were the comments that I noted from the last session.

Chairman Pruet: Let's take a further minute to read these again. Commissioner comments on this?

Commissioner Pane: Mr. Chairman, I have a question. I believe Carol brought up, several meetings ago about several of these types of signs inside the windows. How does this address that, if at all?

Ed Meehan: If there is any signage behind windows, this is just pertaining to the price signs that you see on gas stations outside. Usually they have them attached to the pylon, but this would not get to that issue.

Commissioner Pane: So what you are saying is that anything behind glass is allowed?

Ed Meehan: We have not regulated, we don't have regulations, we have not regulated signage that businesses put inside the windows, everything from Lotto signs to Open for Business.....

Commissioner Pane: So in our regulations, if it is not stated, it is not allowed then?

Ed Meehan: That has been discussed. Years ago we talked about that, and how do you count that is the question. Do you count that towards the overall square footage? If it's the will of the Commission to clarify that and put it in your sign area, standards, that anything inside the window, whether it is electronic, or poster board, or whatever it is, would be counted towards signage, then you need to bring, the right way to do it would be to put that in your standards. It is going to be very hard to regulate. Sometimes it is in and out, but that again is a policy decision on the board's part.

Chairman Pruet: Anything else?

Commissioner Pane: Well I just bring it up because I see it as a problem, and if you have a few businesses doing that, and then you've got liquor stores, for example, plastering all of the windows with signage and you couldn't even read all of the signage, and it really makes it look terrible, and I think the Commission should look at that somehow, and address those two issues. Thank you.

Commissioner Anest: What I brought up a couple of weeks ago, a couple of meetings ago was the Open flashing signs, it wasn't like the advertising.....

Commissioner Pane: I mentioned that.

Commissioner Anest: Okay. That's what I was talking about.

Commissioner Pane: I mentioned that and I would like to address that too.

Commissioner Anest: You are starting to see them more and more.

Chairman Pruet: That is something that we can discuss under Section D, but right now we are looking at the draft provisions for this. Any further comments from the Commissioners on this? Is the consensus to move this to Public Hearing?

Commission: Yes.

Chairman Pruet: We will bring this up for public hearing at our next meeting.

C. Public participation on the above Draft Zone Amendments.

Chairman Pruet: The public is invited to add their comments on this discussion on mechanical and digital signs for gasoline usage and redefining what a digital sign is, for example, it is only limited to time and temperature and it cannot rotate or flash or be a nuisance to safety. Would anyone from the public like to discuss that? Feel free to step forward.

D. Possible Zone Regulation Amendments for Discussion and Drafting.

Chairman Pruet: Again, we are discussing our current regulations. That is open for discussion.

Commissioner Aieta: I brought up at the last meeting the Special Exceptions, having that as our next topic to discuss, to see if there are any changes that have to be made there. Domenic brought up tonight about the signs. You might want to put that on.

Chairman Pruet: Okay, anything else on that Special Exception specifically?

Commissioner Aieta: At this point, I think we should look at the regulations to see what kind of changes might be made and give the Commission some time to study it and then come back and make some recommendations.

Chairman Pruet: Okay, if the Commission would look at that portion of our regulations and anything we would like to discuss. We identified, last September, October, we did like a little review, three items, and we got those items out of the way, and we went forward with them, so anytime you wish to bring up concerns, special exceptions, or rules and regulations feel free to bring it up at this time, or as I mentioned, when we have a chance to review our regulations. Any other comments on this?

VIII. **PETITIONS FOR SCHEDULING** (TPZ April 27, 2011 and May 11, 2011.)

- A. Petition 09-11 – Toll Brothers, Inc. 53 Church Hill Road Newtown, CT 06460 applicant, Marcap LLC owner request Zone Map Amendment from CD Commercial Development District to R-12 (Residential Use District for a 28.5 acre parcel adjacent to East Cedar Street Assessor Map 11-335.00A. Public Hearing date to be determined by the Commission.

Ed Meehan: I want to go over several petitions since the agenda was posted and went out to the Commission members and up on the web page. You see Petition 09-11, Toll Brothers petition for zone map amendment, Commercial Development District to R-12. That will require a public hearing and I would recommend that the Commission consider putting this on for your first meeting in May, which would be May 11th, giving some lead time on this, giving staff time to prepare reports. We would also need to coordinate this with the Inland Wetlands Agency which also received petitions for the adjacent piece, which is the 72 acre Balf property. What we did receive today, the date of receipt won't be today, it will be your next meeting, April 27th, we received subdivision plans for the proposed Balf open space development which are companion petitions, and the special permit for the open space subdivision. So you're got basically a subdivision application, which you can bring to public hearing, and it's been my experience with this board that you normally bring subdivisions of this size, this is seventy lots, to public hearing, to give the public a chance to comment. You've got a companion special permit application which asked for an open space subdivision in the R-20 zone, and you have a petition for a zone map amendment on the adjacent property, CD to residential. I would suggest that you try to do those in sequence, but start on May 11th, and we could run parallel to the Inland Wetlands Agency which is being petitioned to amend their wetland map and also to make a decision on whether they want to hold a public hearing on activities within the wetlands, regulated wetland areas, so they may have a public hearing process themselves. The reason also I suggest that you go out to May 11th you've got some other items. Tonight you just put on the proposed zone change for the digital signage, which would be on for the 27th. There is a site plan modification for 151 Rockwell Road that came in, that's Hudson Home Health Care, it's for an addition to that building. It's not an extensive site plan, it might be something you could do, at least get going on the 27th. There is a Special Exception application for an event at 1076 Main Street submitted by FinnBques, called First Thursdays. They want to do something starting May to October, first Thursday of each month. It does require a Special Exception and a review by this Commission and also an event application and sign-off by the Town Manager. I have been talking to a couple of other restaurants in town, they will probably bring in their site plans for outside dining. Joey Garlic's I met with earlier this week, Fat and Happy has talked to staff about doing something, so what I am suggesting is that you try to clear the decks a little bit before May 11th. Take care of some of these smaller items.

Chairman Pruett: Thank you. I concur with the recommendation from Ed to go along that route and get as much done before May 11th? Comments from fellow Commissioners on that schedule? Okay, we will go with that schedule Ed.

Ed Meehan: Thank you, I'll set that up.

Chairman Pruett: Anything else under scheduling?

Ed Meehan: No, I'll keep you informed of, I don't expect anything else coming in. Maybe a couple of these outside dinings may not materialize because they have to prepare plans for these, but they were going to try to get something in.

IX. REMARKS BY COMMISSIONERS

Chairman Pruet: Under Remarks we can address this 8-24 referral and also Petition 08-11 on the Plaza Azteca Restaurant.

8-24 Referral
Easement to State of Connecticut
690 Cedar Street National Welding
Slope and Drainage Rights

Commissioner Hall moved that the Commission report to the Town Council its approval to grant the State of Connecticut slope and drainage easements on the former National Welding property at 690 Cedar Street.

The easements are delineated on a "Map Showing Easement Acquired from Town of Newington by the State of Connecticut, Department of Transportation, New Britain-Hartford Busway, Scale 1" = 40' December 2006."

These easements are required by the State to construct the abutting busway and Cedar/Fenn Station.

The storm drainage system will also benefit the Town of Newington's redevelopment of the National Welding property and the planned roadway connection to Fenn Road.

The Commission recommends that prior to the signing of Department of Transportation's Acceptance Agreement for compensation, the Town Manager get confirmation that the access road to the Cedar/Fenn Station will also provide public access to the National Welding property and any future redevelopment uses.

Chairman Pruet: Discussion on the referral?

Commissioner Anest: I have a couple of questions. What happens if they decide not to put a Cedar/Fenn Station?

Ed Meehan: Well, if they don't build the station they may not need these drainage rights, and it would fall to the Town of Newington to build these drainage.....

Commissioner Anest: Would they sell it back to the town?

Ed Meehan: Well, they have already acquired the four acres next to National Welding, but let's say for some reason the busway doesn't get built.....

Commissioner Anest: I'm not talking about the busway, I'm talked about the station.

Ed Meehan: Well, some of these drainage areas would be needed for the road that is going to go out to Fenn Road.....

Commissioner Anest: For National Welding only?

Ed Meehan: For National Welding and because of the grading, probably for part of the abutting property that would have been the busway station. National Welding as you know is down in a hole, and water is flowing right now sort of over both the town's National Welding piece and over the unimproved State piece that might become like a commuter parking lot.

So if the road is going to be constructed, the drainage would still be needed, and I think it would be reversed. It would be the Town going to the State looking for drainage rights, not them coming to us.

Commissioner Anest: Is this something that has to be voted on tonight?

Ed Meehan: I would recommend that you act on it tonight.

Commissioner Anest: When is this all going to start?

Ed Meehan: The Town Manager has had this paperwork since the early part of the year, and we have been sort of waiting to see what happened on Governor Malloy's decision on this so, as I mentioned in my staff report, you can see on a larger scale map, it's basically three catch basins and some, two or three hundred square feet of grading area that make their property work, and whatever happens on National Welding, the drainage off of National Welding is going to have rights to go into this, and that is critical for the re-development of National Welding. It does benefit us, and it makes the road feasible, the public road out to Fenn Road. We had at staff level, administration level in conversations with the Department of Transportation staff for over a year about trying to strike a public/private partnership in getting the road in from Fenn that would serve National Welding, it would serve the busway station, it would serve the adjacent property and eliminate the right in and right out on Fenn Road. If you recall, when the hotel was approved for that piece we had reservations about the safety of a right in and right out without a traffic signal on Fenn. So this is all part of the puzzle. If the busway station doesn't happen there, then we still need drainage rights.

Commissioner Anest: Well, I am not going to be voting in favor of this because I'm not in favor of the busway. If that language was not in here saying construct the Cedar/Fenn station I would be voting in favor of this and I understand the necessity of it, but because it states that, it states the busway station, I will not be voting in favor of this. Thank you.

Chairman Pruet: Okay, further comments from Commissioners? Basically Ed, what you said, if it doesn't get passed, we are kind of getting a pig in a poke with the Welding property.

Ed Meehan: Well, one more thing that we have to deal with in the redevelopment efforts of what we do with the storm water. The storm water from this National Welding site has to flow through the state system into a detention basin then be outletted into the Piper Brook system, so whether the busway station goes or not, the water is going to go the same way because it all flows downhill.

Chairman Pruet: Further comments? Could I get a show of hands for the accepted referral.

The vote was in favor of the motion, with six voting YES and one Nay (Anest.)

Commissioner Camerota moved that Petition 08-11 be moved to Old Business. The motion was seconded by Commissioner Hall. The vote was unanimously in favor of the motion with seven voting YES.

Petition 08-11
3260 Berlin Turnpike
Outside Seasonal Patio Dining
Plaza Azteca Restaurant

Commissioner Camerota moved that the request for outside seasonal patio dining area at 3260 Berlin Turnpike, Plaza Azteca Restaurant, be approved. The patio area shall be 20 feet wide by 60 feet long, accessible from double doors along the front (Berlin Turnpike) side of the restaurant. This area is only for seasonal use and shall not be enclosed or converted for year round use.

The motion was seconded by Commissioner Hall. The vote was unanimously in favor of the motion, with seven voting YES.

Chairman Pruet: Any further remarks by Commissioners?

X. STAFF REPORT

A. Harvest Ridge Subdivision Shady Hill-Rockledge, five (5) year extension request.

Ed Meehan: I put Harvest Ridge request for extension under staff report because this type of action doesn't normally require a petition, a formal petition submitted to the Commission. The staff report briefly explains these are the four vacant lots that were part of a six lot subdivision approved two years ago, three years ago. The two front lots on this property, used to be known as the Jasut property on Culver Street have been developed and a c.o. and the buildings are occupied. The upper four lots, which was the extension of Shady Hill were purchased by a home builder, Alan Builders. He is asking for a five year extension. I believe in his letter he said because of economic conditions and timing of the market and so forth. So it's a fairly standard thing. You can go up to ten years under the statutes and you can grant him another three years, another five years, another one year, or you don't have to grant him anything, but it's something normally that most local Commissions do, they do approve a subdivision extension.

Chairman Pruet: Questions for Ed on this?

Ed Meehan: I'll just add a post script, in the suggested motion you will see that all conditions of the previous approval, I want to make sure that they remain in effect because this upper four lot area, the Commission's Certificate of Action when it was approved had a lot of conditions relative to site preparation, pre-blast surveys, controlled blasting, erosion control measures, because it's a rock pike up there, so those most remain in effect, that would be my recommendation.

Chairman Pruet: I'll entertain a motion to add this to Old Business.

The motion was made by Commissioner Casasanta and seconded by Commissioner Anest.

Commissioner Hall: I have to abstain from anything about this, having been involved with this in the past, and probably in the future, so I will not be voting on this at all.

Chairman Pruet: Okay.

**Harvest Ridge Subdivision
Five (5) Year Extension Request**

Commissioner Anest moved that the completion date for subdivision improvements at Harvest Ridge, Shady Hill Lane, lot #53, #54, #59, and #60, be extended from March 12, 2013 to March 12, 2018.

All conditions for the development of the Shady Hill Lane lots including bonding, rock blasting and lot grading as set forth in the Commission's approval, Certificate of Action Petition 47-07 March 17, 2008 **shall remain in effect.**

The motion was seconded by Commissioner Casasanta. The vote was in favor of the motion with six voting yes and one abstention (Hall.)

Ed Meehan: I just want to call to your attention that the post office did move the mail boxes a couple of days ago. I've been there a couple of times, it seems to be working fine. Maybe a small victory....

Commissioner Hall: Where did they move them?

Ed Meehan: They moved them as suggested about thirty, thirty-five feet further up the sidewalk, away from the driveway entrance.

Chairman Pruett: Definitely a major safety positive action.

XI. PUBLIC PARTICIPATION
(For items not listed on agenda)

Rose Lyons, 46 Elton Drive: There has been a lot of discussion around this table for the last few months regarding temporary signs, digital signs, etc. I know it is hard to enforce the ordinances and I know that our enforcement officer only has so much time in the day, but I'm noticing that some of these, one business in particular has temporary signs not only in front of their business, in the center of town, but up at Joanne's Plaza, and now I'm noticing in the center right on Main Street that one business has posted a sign, a permanent sign on what I think is probably town property that there is parking in the rear. A great idea to let them know that there is parking in the rear, but the sign is after you go by the driveway into the rear parking lot. One other restaurant in the center of town has had a lot of temporary signs, or did when it first opened, but I guess they have given up on that, and now have constructed a permanent sign on what appears to be town property also. I don't know whether there is any town ordinance regarding this matter, although I'd rather see a permanent sign than cardboard hanging off of a telephone pole advertising breakfast on Saturday morning, I'm hoping that there are some ordinances that you can, that you have that you can enforce and if they aren't there, perhaps draft something. Thank you.

XII. CLOSING REMARKS BY CHAIRMAN

Chairman Pruett: Starting this Saturday we are going to revise the schedule of the Zoning Enforcement Officer to start going on inspections and informational advice to businesses on proper use of signage. We've had some concerns that late Friday afternoon, and Saturdays, illegal signs seem to be appearing. We are going to address that on a temporary basis, see how it works, and see if we can enlighten some of the businesses on what the proper procedures are on posting signs.

XIII. ADJOURNMENT

Commissioner Anest moved to adjourn the meeting. The motion was seconded by Commissioner Casasanta. The meeting was adjourned at 7:40 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary